

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
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GIAQUINTO MASONRY, INC.,

Plaintiff,

MEMORANDUM AND ORDER

-against-

CV 12-5035 (LDW) (ARL)

HANOVER INSURANCE COMPANY,

Defendant.

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WEXLER, District Judge

Plaintiff Giaquinto Masonry, Inc. (“Giaquinto”) brings this action against defendant Hanover Insurance Company (“Hanover”) to recover under a payment bond issued by Hanover on behalf of non-party L.D. Wenger Construction Co., Inc. (“Wenger”). Wenger, as general contractor, entered into an contract with the Town of Huntington for construction work to improve an ice skating rink in Dix Hills, New York (the “Project”). Giaquinto entered into a subcontract with Wenger to perform certain masonry work on the Project. Giaquinto moves for summary judgment under Rule 56 of the Federal Rules of Civil Procedure. Hanover opposes the motion.

Upon consideration, the Court finds that genuine disputes of material fact exist precluding the entry of summary judgment. *See* Fed. R. Civ. P. 56(a) (party seeking summary judgment must demonstrate that “there is no genuine dispute as

to any material fact and the movant is entitled to judgment as a matter of law”); *Celotex Corp. v. Catrett*, 477 U.S. 317, 322 (1986). Accordingly, Giaquinto’s motion for summary judgment is denied.

SO ORDERED.

_____/s/_____
LEONARD D. WEXLER
UNITED STATES DISTRICT JUDGE

Dated: Central Islip, New York
September 24, 2014